



FEDERAL ELECTION COMMISSION
Washington, DC 20463

DEC 03 2012

Alvin Greene
P.O. Box 511
Manning, SC 29102

RE: MUR 6315

Dear Mr. Greene:

On February 23, 2011, you were notified through counsel that the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 432(e)(1) and that Alvin M. Greene for Senate ("Committee") violated 2 U.S.C. §§ 433(a) and 434(a) and (b), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with your candidacy for the United States Senate from South Carolina in 2010, and instituted an investigation of this matter. After the investigation, the Commission's Office of General Counsel issued a report recommending that the Commission take no further action as to you and the Committee, close the file in this matter, and issue a letter of caution to you and the Committee, see attached, but the Commission was equally divided on whether to approve these recommendations, and closed the file in this matter on November 28, 2012.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink that reads "Mark Allen".

Mark Allen
Attorney

Enclosure
General Counsel's Report

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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

Alvin M. Greene

Alvin M. Greene for Senate

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MUR 6315 CELA

SENSITIVE

SECOND GENERAL COUNSEL'S REPORT

I. ACTIONS RECOMMENDED

(1) Take no further action as to Alvin M. Greene; (2) take no further action as to Alvin M. Greene for Senate; (3) issue a letter of caution to Alvin M. Greene and Alvin M. Greene for Senate; and (4) close the file.

II. INTRODUCTION

Alvin M. Greene was a candidate for the United States Senate from South Carolina in 2010. He won the Democratic primary election on June 8, 2010, and lost the general election on November 2, with 28% of the vote. Greene never filed a Statement of Candidacy with the Commission and never designated a principal campaign committee. Alvin M. Greene for Senate (the "Committee"), nor any other committee purporting to be Greene's authorized campaign committee, filed a Statement of Organization or disclosure reports with the Commission.

The Commission found reason to believe that Greene violated 2 U.S.C. § 432(e)(1) by failing to file a Statement of Candidacy and designate a principal campaign committee and that the Committee violated 2 U.S.C. §§ 433(a) and 434(a) and (b) by failing to file a Statement of Organization and failing to file disclosure reports. See MUR 6315 Certification dated February 18, 2011. The Commission found that Greene exceeded the \$5,000 candidate threshold under the Federal Election Campaign Act of 1971, as amended (the "Act"), when he paid a \$10,440 filing fee to the Democratic Party of South Carolina to appear on the primary

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1 election ballot. *See Factual & Legal Analysis at 3-6 ("F&LA")*. The Commission authorized
2 an investigation to determine how much money Greene and the Committee raised and spent for
3 his campaign and whether Greene was involved in any spending by third parties on his behalf.
4 *See First Gen. Counsel's Rpt. at 9.*

5 The evidence gathered in the investigation, including financial records and interviews of
6 Greene and of several individuals involved in Greene's campaign and documents from a state
7 criminal investigation of Greene, indicates that Greene and the Committee raised and spent less
8 than \$15,000 including the filing fee, had no paid campaign staff, engaged in only limited paid
9 advertising that included only signs and T-shirts, and relied substantially on media interviews
10 and speeches to promote the campaign. Further, it appears that Greene was not involved in
11 third party spending on his behalf. A small group of individuals served as unpaid advisors to
12 Greene and developed a campaign website that solicited contributions, and Greene himself
13 signed the Committee's checks. Greene's campaign was also supported by unofficial websites
14 and by videos posted on YouTube.

15 Under these circumstances, we recommend that the Commission take no further action,
16 caution Greene and the Committee regarding the candidate registration and reporting
17 requirements of the Act, and close the file.

18 **III. RESULTS OF INVESTIGATION**

19 On March 16, 2010, Greene filed a "Notice of Candidacy and Pledge" with the
20 Democratic Party of South Carolina indicating his intent to run for United States Senate.
21 MUR 6315 Compl., Ex. 1 at 2 (June 15, 2010). That same day, Greene opened a bank
22 account at the National Bank of South Carolina ("NBSC") under the name Alvin M. Greene
23 d/b/a Alvin M. Greene for Senate, deposited \$10,570 into the account, and signed a check for

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1 \$10,440 drawn on this account and made out to "SC Democratic Party" with the handwritten
2 notation "Alvin M. Greene for Senate" on the upper left-hand corner. *Id.* at 3; NBSC Resp. to
3 Commission Subpoena, Feb. 29, 2012. The funds in the NBSC account used for the filing fee
4 came from Greene's personal funds from his account at the Bank of Clarendon (South
5 Carolina), which were derived from Greene's military salary and income tax refunds. *See* South
6 Carolina Law Enforcement Division ("SLED") Documents at 49-50, 82-92 (Greene's Bank of
7 Clarendon account records); SLED, *Alvin Greene Investigation Closed; No Charges Filed* at 1,
8 July 9, 2010, available at
9 <http://www.sled.state.sc.us/CISystem/Images/NewsPress/SNP0571.pdf> ("monies spent for
10 Greene's filing fee were the candidate's personal funds").

11 Greene appeared on the June 8, 2010, primary election ballot, conducted only a limited
12 campaign, and won the election with 59% of the vote. *See*
13 <http://www.youtube.com/watch?v=VYtnrvn9xd4> (Greene responding to questions as to how he
14 won the primary and stating that he campaigned across South Carolina and had the help of
15 family and friends, that he held no campaign events, had no campaign signs or website, and
16 paid for his travel with his unemployment benefits).

17 For the 2010 general election, Greene solicited contributions on his campaign website,
18 www.alvingreeneforsenator.com, which was registered on June 12, 2010 and, according to
19 Greene, was created by his campaign.⁴ The website is titled "Official Site for Alvin M. Greene
20 for United States Senate," contains information on a variety of issues, and has a donations page
21 with the words "DONATE HERE!" under the logo "Alvin Greene 2010." A link brought

⁴ The website described below was captured by an internet archive from September 17, 2010. *See*
<http://web.archive.org/web/20100917081729/http://alvingreeneforsenator.com/home>.

1 potential donors to a PayPal account page to make on-line contributions to Greene. A
2 disclaimer at the bottom of the page states "Paid for by Alvin M. Greene for United States
3 Senate 2010." Another page on the website, titled "How to Donate to Alvin's Campaign,"
4 instructed potential donors they may donate by check, credit card or PayPal, requests the
5 contributor's personal and employment information, contains the Act's source and contribution
6 limitations, provides a mailing address for sending contributions, and ends with the disclaimer
7 "paid for by Alvin Greene for Senate," followed by the same mailing address. Greene
8 confirmed in a telephone interview that this website was the only official campaign website, and
9 the evidence indicates that it was the only fundraising mechanism for Greene, who conducted
10 no fundraising events.

11 In addition to Greene's initial \$10,570 deposit and the \$10,440 candidate filing fee that
12 Greene paid in March 2010, the NBSC bank records subpoenaed by the Commission show just
13 over \$4,000 in deposits and just over \$3,900 in withdrawals through the end of 2010. See
14 NBSC Resp. (Statements). Greene stated in an interview with this Office that the NBSC
15 account was the campaign's only bank account, and we have no information suggesting
16 otherwise.

17 Greene had sole signature authority on the account, signed all 15 of the NBSC account
18 checks written during 2010; after the March 16 check for \$10,440 for the candidate filing fee,
19 the check dates range from June 30 to December 22, 2010, and total \$3,917. Greene noted a
20 purpose of the payment on the memo line of all but one of the checks. The stated purposes

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1 include "Campaign T-shirts," "Campaign Signs," "Campaign Travel," and "Campaign Return
2 Reception." See NBSC Resp. (Checks), (Acct. Sign Cards).⁷

3 Consistent with the small amount of funds raised and spent, Greene had no paid
4 campaign staff. Donna Warren served as a campaign advisor to Greene during most of his
5 general election campaign.⁸ Warren told us that she offered Greene her firm's services on a
6 range of matters including recruiting volunteers, operating phone banks, handling a website,
7 producing videos, creating a Facebook page, maintaining a bank account, scheduling, reporting
8 to the FEC, and improving Greene's speaking. Warren told us, however, that Greene was not
9 able to pay for anything related to his campaign.

10 Like Warren, Krystal Reid, Greene's "communications manager," told us that she hoped
11 to be paid for her campaign work but agreed to work for the campaign without compensation, as
12 she believed it would be beneficial to her business and assist her with name recognition. Reid
13 described herself as a political consultant and told us that Greene expressed to her that he
14 needed assistance with communications and research for his campaign. She told us that she
15 became involved with the campaign in late September or early October 2010, and described her
16 work as speech writing, research, policy analysis, and image control, but noted that she had a
17 limited role with the campaign. Reid said that she had wanted to send out mailers, but Greene
18 told her that they could not afford to do that.

⁷ Seven of the checks were made out to "Cash." The one check without a stated purpose was for \$150.00 made out to "Cash," dated December 22, 2010. See NBSC Resp. (Checks) at 3.

⁸ Warren described herself to us as an auditor, a retired employee of the Department of Defense, a past political candidate, and knowledgeable of the FEC and federal campaign finance law. She said that she remained in California during the campaign and never met Greene in person.

1 Greene engaged in media interviews and speeches to promote his campaign.¹³ The
2 evidence discussed above of Greene's limited campaigning with unpaid advisors, and Greene's
3 lack of involvement in spending by third parties on his behalf is consistent with what Greene
4 told the press,¹⁵ and with a film produced by documentary filmmakers who accompanied
5 Greene during his general election campaign.¹⁶

6 Following Greene's primary election victory, unofficial websites and social networking
7 pages appeared that supported Greene's candidacy and solicited contributions on his behalf to
8 be sent to the same mailing address as the one on Greene's official website or made via
9 Greene's website.¹⁷ Videos were posted on YouTube supporting Greene.¹⁸ The evidence
10 gathered in the investigation and other available information does not indicate that Greene was
11 involved in third party spending on his behalf. And the Commission's database does not reveal

¹³ For example, Greene spoke before the NAACP in Manning, South Carolina, on July 18, 2010. See "Alvin Greene's First Official Speech," <http://www.youtube.com/watch?v=pSJ6PlgS4Ys&feature=related>.

¹⁵ See, e.g., <http://www.youtube.com/watch?v=U29OI1aMOI&feature=related>; <http://www.youtube.com/watch?v=FYEC86NwMbK&feature=related>; <http://www.youtube.com/watch?v=VYtnrvn9xd4>. Greene's campaign was the subject of national press attention after he won the primary election. See, e.g., Manuel Roig-Franzia, *In South Carolina, Greene is mystery man despite winning Democratic Senate nod*, WASHINGTON POST, June 11, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/06/10/AR2010061002499.html>; Arian Campo-Flores, *What Makes Alvin Greene Run?*, NEWSWEEK, June 24, 2010, available at <http://www.thedailybeast.com/newsweek/2010/06/24/what-makes-alvin-greene-run.html>; Katharine Q. Seelye, *Enigmatic Jobless Man Prepares Senate Campaign*, NEW YORK TIMES, July 10, 2010, available at <http://www.nytimes.com/2010/07/11/us/politics/11greene.html?pagewanted=all>.

¹⁶ *Who Is Alvin Greene?*, directed by Leslie Beaumont and David Garrett. See <http://www.imdb.com/title/tt1701980/>.

¹⁷ See <http://www.alvingreene2010.com>, available at <http://web.archive.org/web/20100925024500/http://www.alvingreene2010.com/>; <http://www.alvin-greene.com>; <http://twitter.com/GoGreene2010>. See also Facebook pages "One Million Strong for Alvin Greene," "Send a Dollar to Alvin Greene," and "Alvin Greene for United States Senate," collected at \Ntsrv1\Voting Ballot Matters\OGC Matters Circ\Enf - MUR 6315 ALVIN M. GREENE\Reports, Briefs and supporting materials.

¹⁸ See, e.g., "ALVIN GREENE Campaign Attack Ad!," "Alvin Greene Senate Campaign Video (Compilation)," and "The Issues Alvin Greene Senate Campaign Ad," collected at \Ntsrv1\Voting Ballot Matters\OGC Matters Circ\Enf - MUR 6315 ALVIN M. GREENE\Reports, Briefs and supporting materials.

any contributions to Greene from any other political committees, any coordinated party expenditure made on behalf of Greene, or any independent expenditure by any person in support of Greene.

IV. ANALYSIS

Once an individual meets the \$5,000 threshold and has decided to become a candidate, he or she has 15 days to designate a principal campaign committee by filing a Statement of Candidacy. 2 U.S.C. § 432(e)(1); 11 C.F.R. § 101.1(a). When Greene paid the South Carolina Democratic Party \$10,440 in ballot access fees on March 16, 2010, the same day he filed his Notice of Candidacy with the State Party, he exceeded the Act's \$5,000 expenditure threshold for candidate status. *See* 2 U.S.C. § 431(2); F&LA at 4-6. Accordingly, Greene should have filed a Statement of Candidacy with the Secretary of the Senate designating a principal campaign committee (FEC Form 2) by March 31, 2010.

Within ten days after a candidate designates a principle campaign committee, it is required to file a Statement of Organization, *see* 2 U.S.C. § 433(a), and must file disclosure reports in accordance with 2 U.S.C. § 434(a) and (b). Accordingly, the Committee should have filed a Statement of Organization with the Secretary of the Senate (FEC Form 1) by April 10, 2010. *See* 2 U.S.C. § 433(a); 11 C.F.R. § 102.2(a). Finally, the Committee should have filed disclosure reports with the Secretary of the Senate beginning with the 2010 Pre-Primary Report and continuing to the present. *See* 2 U.S.C. § 434(a) and (b).

By failing to register and report, Greene violated 2 U.S.C. § 432(e)(1) and the Committee violated 2 U.S.C. §§ 433(a) and 434(a) and (b).

Although Greene and the Committee violated the Act, the evidence indicates that Greene raised and spent less than \$15,000 on his campaign. There is no indication that he was

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1 involved in spending by third parties on his behalf.²¹ Further, the evidence does not suggest that
2 the individuals who worked with Greene, such as Warren and Reid, were paid by any other
3 person, which would constitute a contribution from that other person. *See* 2 U.S.C.
4 § 431(8)(A)(ii) ("contribution" includes the payment by any person of compensation for the
5 personal services of another person which are rendered to a political committee without charge
6 for any purpose) and (8)(B)(i) ("contribution" does not include the value of services provided
7 without compensation by any individual who volunteers on behalf of a candidate or political
8 committee); 11 C.F.R. § 100.94 (uncompensated internet activity by individuals, including the
9 creation of websites, is not a contribution).

10 Under these circumstances, we recommend that the Commission take no further action
11 as to Greene and the Committee, and close the file. In view of the failure of Greene and the
12 Committee to comply with the Act's candidate and committee registration and disclosure
13 requirements, we further recommend that the Commission issue a letter of caution to Greene
14 and the Committee regarding these requirements.

15 **V. RECOMMENDATIONS**

- 16 1. Take no further action as to Alvin M. Greene;
17
18 2. Take no further action as to Alvin M. Greene for Senate;
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20 3. Issue a letter of caution to Alvin M. Greene and Alvin M. Greene for Senate;
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22 4. Close the file; and
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²¹ Greene did not respond to the Commission's Subpoena to Appear for Deposition and Produce Documents and Order to Submit Written Answers, but we were able to obtain the necessary financial documents directly from NBSC and PayPal.

5. Approve the appropriate letters.

Anthony Herman
General Counsel

Daniel A. Petalas
Associate General Counsel
for Enforcement

Date: 9-19-12

BY:

Kathleen Guith
Kathleen Guith
Deputy Associate General Counsel
for Enforcement

Peter G. Blumberg
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